

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION

ROBERT E. JONES, Plaintiff

v.

No. 4:96CV323-B

JOE CONNER, KATALBA JORDAN,
CO-1 RICKEY BARNES, EDDIE BOUND,
DONNIE CHATMAN, and CONNIE BROGER, Defendants

OPINION

The parties in the above entitled action having consented to trial and entry of final judgment by the United States Magistrate Judge under the provisions of 28 U.S.C. §636(c) and Local Rule 72, with any appeal to the Court of Appeals for the Fifth Circuit, the action came on for non-jury trial before the court at Oxford on October 26, 1999, Eugene M. Bogen, United States Magistrate Judge, presiding.

This is an action filed under 42 U.S.C. §1983 by Robert E. Jones, an inmate of the Mississippi Department of Corrections presently confined at the Parchman penitentiary naming as defendants Joe Conner, Katalba Jordan, CO-1 Rickey Barnes, Eddie Bound, Donnie Chatman and Connie Broger, all correctional officers at the penitentiary.¹

Plaintiff claims that during a shakedown of Unit 32-D on May 23, 1996, he was beaten by defendant Bound, Barnes and Jordan, at the direction of defendant Conner and in the presence of and at the encouragement of defendant Chatman. Plaintiff also claims that defendant Broger, who was working in the tower during the incident, opened the cell door and did nothing to intervene in the assault. Plaintiff claims that after repeated calls for medical attention he was finally taken by ambulance to the prison hospital, where he was given an injection of Demerol and kept overnight. Pictures were taken of him there, and his statement was tape recorded by Investigator Lee of Internal Affairs. He was returned to his cell the following day, but prescribed nothing but ibuprofen for the

¹ At trial defendants Bound, Conner, and Chatman corrected the spelling of their names as set forth in this opinion, and as reflected above.

continued pain in his back and neck. Plaintiff claims he completed nearly 11 sick leave slips, but never received further treatment for his injuries. The only permanent injury he has today is a small scar across the left side of his nose.

Based on the stipulated facts as set forth in the pretrial order and the testimony heard at trial, the court finds as follows:

FACTS

On May 23, 1996, plaintiff was housed on the second tier in Unit 32-D when a shakedown was conducted. During the shakedown some sort of slur was directed to a female corrections officer, and as a result of that slur Lt. Conner, a squad supervisor during the shakedown, stopped at plaintiff's cell to inquire if either he or his cell mate Ricky Gandy had made the statement. Although the plaintiff and Gandy adamantly denied making the statement, Conner ordered plaintiff and Gandy cuffed and removed from their cell. Gandy was cuffed first and removed from the cell, at which time the plaintiff was assaulted by Bound and others, at the direction of and in the presence of Conner, and at the encouragement of Chatman.

Defendant Broger was in the tower and had no reasonable opportunity to intervene in the incident even if she had knowledge that such an assault was occurring. Defendant Katalba Jordan, a female corrections officer, was identified at trial by the plaintiff as having nothing to do with the incident at issue -- the corrections officer Jordan that plaintiff claims to have assaulted him was male. Defendant Barnes is no longer employed by MDOC, and was not located for service of process at his last known address. Although he appeared at the trial, counsel for MDOC no longer represented him and he had not been properly served. Consequently, Broger, Jordan, and Barnes will be dismissed by separate order.

CONCLUSION

The plaintiff's description of his injuries is fully supported by the pictures taken following the incident, presumably by an investigator from Internal Affairs. These pictures (Exhibits P-2 and P-3) are marked on the back with an IA case number, despite the defendants' claims that there was no

investigation of the incident. Indeed, the entire defense of this case is that nothing ever happened, but the medical records and pictures clearly establish that plaintiff was beaten. The medical records establish that plaintiff was brought to the hospital by ambulance, given an injection of Demerol and kept overnight. Neither the administration of a heavy narcotic or the overnight stay at the hospital are usual practices at the penitentiary hospital when an inmate has no significant injury. The treatment notes indicate that at 2311 hours an investigator was at plaintiff's bedside, and two separate notations by two different medical personnel indicate that plaintiff alleged that an officer "stomped" him in the back and hit him. Thus, the court concludes that plaintiff was injured, was treated for a significant injury by the hospital staff, and that an investigation was begun at that time. Curiously, the defense had the opportunity to offer the report of such investigation as exculpatory evidence, but none was offered and each defendant denied ever being questioned about the incident.

The plaintiff's version of the incident is also supported by two other inmates not currently housed with the plaintiff. His former cell mate, Ricky Gandy, is now housed in Unit 32-A, and Taiyjuan Koonce, housed in the adjoining cell on May 23, 1996, is presently at the Wilker-son County Correctional Facility. Nonetheless, these witnesses fully corroborated plaintiff's version of the incident and positively identified the defendants as participating in the assault.

The court finds it noteworthy that the defendants deny any knowledge of the incident, do not know the plaintiff, were never asked any questions by any investigator about the incident, and explain that their names may have been pulled out of thin air by the plaintiff and his witnesses, despite the fact that they all admit that they were working during this particular shakedown on tier two in Unit 32-D on May 23, 1996. If the plaintiff and his inmate witnesses just pulled their names out of thin air, they were remarkably accurate. None of the defendants were assigned to Unit 32-D, but were called from other buildings to work this shakedown. Thus, none of them had any daily contact with the plaintiff or Gandy or Koonce, yet these inmates were able to positively identify each of these defendants.

It is therefore the opinion of the court that substantial, credible evidence supports the plaintiff's version of the facts, and that a judgment in his favor should be entered against the defendants Joe Conner, Eddie Bound and Connie Chatman in the amount of \$6,000.00.

A separate order in accordance with this opinion shall issue this date.

THIS, the 29th day of October, 1999.

UNITED STATES MAGISTRATE JUDGE

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FINAL JUDGMENT

In accordance with an Opinion entered this day, it is hereby

ORDERED AND ADJUDGED:

1. That all of plaintiff's claims against defendants Katalba Jordan, CO-1 Rickey Barnes, and Connie Broger be, and are hereby, dismissed with prejudice.

2. That Robert E. Jones do have and recover of and from the defendants Joe Conner, Eddie Bound and Connie Chatman, jointly and severally, the sum of \$6,000.00, together with post judgment interest at the rate of 5.411 percent per annum.

3. All costs are taxed to the defendants.

ORDERED AND ADJUDGED, this, the 29th day of October, 1999.

UNITED STATES MAGISTRATE JUDGE